

STATE OF WASHINGTON**OFFICE OF
INSURANCE COMMISSIONER****BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON**

In the Matter of) No. D 01 - 32
)
DWI of Southcenter, Inc.	STIPULATION AND
DBA: Dave Warner) ORDER LEVYING
Insurance,	FINE
<i>Licensee.</i>)

I. Background

1. On or about April 18, 2001, the Office of the Insurance Commissioner (OIC) issued orders revoking licenses to Licensee Dave M. Warner and to Licensee DWI of Southcenter, Inc. d.b.a. Dave Warner Insurance (hereinafter collectively referred to as "Dave M. Warner" or "Licensees"), such revocations to be effective May 8, 2001.

2. Licensees duly requested administrative hearings on the orders revoking licenses.

3. The orders revoking licenses allege that Dave M. Warner "allowed [his] son David B. Warner (a.k.a. Dave Jr.), prior to his licensing as an insurance agent... to complete and sign applications for insurance, using the name David Warner" and that this "was an attempt to conceal from insurers and consumers the fact that 'Dave Jr.' was not then licensed as an insurance agent...." The orders revoking licenses also state that Dave M. Warner falsely stated to OIC investigators that his "son, who was not then a licensed agent, was working only in a secretarial capacity." The orders revoking licenses also allege that David B. Warner was an employee of DWI of Southcenter and Dave M. Warner is the owner of DWI of Southcenter.

4. On or about March 28, 2001, David B. Warner entered into a Stipulation and Order Levying Fine, in which he stipulated that "prior to being licensed ... [he] completed and signed applications for insurance using his father's name, Dave Warner" and that this was "an attempt to hide from insurance companies and the consumers the fact that [he] was not licensed to transact the business of insurance." The Stipulation further provides that David B. Warner "prior to being licensed ... did act and hold himself out to be an agent without being properly licensed" and that when "confronted by the investigator..." he "failed to be truthful." The Stipulation and Order Levying Fine found violations of RCW 48.17.060(1), RCW 48.17.010 and RCW 9A.76.175, and imposed a fine in lieu of

suspension or revocation, which fine has been paid by David B. Warner.

5. Dave M. Warner has taken the position that he did not violate the insurance laws in that he employed a licensed agent/manager, Richard Mills, to supervise DWI of Southcenter, that it was Richard Mill's obligation to assure that Dave Jr. did not act as an agent, and that he was not aware that David B. Warner was acting as an agent and was issuing policies under the name "Dave Warner." Dave M. Warner also contends that he was in Mexico when the illegal conduct by his son occurred.

6. OIC has taken the position that Dave M. Warner was aware of, approved or authorized the illegal conduct of Dave Jr. in acting as an agent without a license, was aware of, approved or authorized the illegal conduct of Dave Jr. in using the name "Dave Warner" to concern that he was not licensed, and rejected concerns and complaints by Richard Mills about such illegal conduct by David B. Warner. It is OIC's position that as owner of DWI of Southcenter, the agency where Dave Jr. was employed, Dave M. Warner was responsible for the actions and conduct of his employees, including David B. Warner, and that Licensees were required and responsible to assure that their employees, including David B. Warner, complied with Washington law, including the Insurance Code.

7. The parties desire to settle and resolve this matter on the terms set forth herein, in order to avoid the time and expense of hearing. The parties agree that this Stipulation and Order Levying Fine represents a negotiated settlement for the purpose of resolving the orders revoking licenses to both Licensees and the requests for hearing thereon, and that by entering into this Stipulation and Order Levying Fine, no party accedes to, agrees with or stipulates to the position taken or allegations made by the other party in the pleadings filed in this proceeding.

II. Stipulation

8. Licensees hereby stipulate to entry of the following Order. Licensees enter into this stipulation voluntarily and in lieu of any suspension or revocation of licensees' licenses for the conduct set forth above and of any further proceedings in Docket Numbers D 01-32 and D 01-33.

9. The proceedings in Docket Numbers D 01-32 and D 01-33 shall be closed and dismissed as settled.

III. Order

Pursuant to RCW 48.17.560 and the foregoing Stipulation, the Commissioner hereby imposes, and Dave M. Warner hereby agrees to pay, a fine in the amount of Three Thousand Dollars (\$3,000.00.) on behalf of himself and DWI of Southcenter, Inc.

The fine shall be paid in full within 30 days from the date of this Order. In the event of failure to pay the fine, the Commissioner will revoke the licenses of both Licensees and the fine will be recoverable in a civil action brought on behalf of the Commissioner by the Attorney General.

Agreed to, and respectfully submitted, this ___ day of August, 2001.

Dave M. Warner, Office of the Insurance Commissioner, and DWI of Southcenter Inc.
d.b.a. Dave Warner Insurance

By:

By:

Attorney for Dave M. Warner
and DWI of Southcenter Inc.
d.b.a. Dave Warner Insurance

Attorney for the Insurance Commissioner

It is so Ordered (and upon payment of fine this proceeding is terminated.)

Patricia Petersen, Chief Hearing Officer

Dated: _____